

SIXTIETH DAY

FRIDAY, APRIL 25, 1997

PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Galloway, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Absent-excused: Luna, Nixon, Whitmire.

The President announced that a quorum of the Senate was present.

The Reverend Albert Elam, Pastor, Stoney Point Baptist Church, Del Valle, offered the invocation as follows:

Our Father, we ask Your blessing today on these our leaders. You know the needs of our hearts today. Meet those in need of Your sweet love. May Your spirit give wisdom and knowledge with understanding for the work before us today, and may the decisions made be for the good of all our people. We ask these blessings in the name of the Lord, Jesus Christ. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of important business.

On motion of Senator Lindsay, Senator Nixon was granted leave of absence for today on account of important business.

On motion of Senator Gallegos, Senator Whitmire was granted leave of absence for today on account of illness.

CO-AUTHOR OF SENATE BILL 180

On motion of Senator Ellis and by unanimous consent, Senator Zaffirini will be shown as Co-author of SB 180.

CO-AUTHOR OF SENATE BILL 844

On motion of Senator Truan and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 844**.

CO-AUTHOR OF SENATE BILL 1042

On motion of Senator Truan and by unanimous consent, Senator Barrientos will be shown as Co-author of **SB 1042**.

CO-AUTHOR OF SENATE BILL 1442

On motion of Senator Wentworth and by unanimous consent, Senator Ellis will be shown as Co-author of **SB 1442**.

CO-AUTHORS OF SENATE BILL 1534

On motion of Senator Barrientos and by unanimous consent, Senators Armbrister, Lucio, and West will be shown as Co-authors of **SB 1534**.

PERMISSION TO INTRODUCE BILLS

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills:

SB 1934, SB 1937, SB 1939

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

SB 1934 by Lucio

Relating to application of the sales and use tax to telephone prepaid calling cards.

To Committee on Finance.

SB 1937 by Lucio

Relating to the provision of telecommunication service within municipalities; prohibiting discrimination in the use of public rights-of-way; establishing the requirements for use of public right-of-way; and relating to permissible fees and charges for engaging in business and using public rights-of-way and pole attachments within municipalities.

To Committee on Economic Development.

SB 1938 by Armbrister

Relating to the Hays County Juvenile Probation Department.

To Committee on Intergovernmental Relations.

SB 1939 by Armbrister

Relating to limiting the area that may be included in the extraterritorial jurisdiction of certain municipalities.

To Committee on Intergovernmental Relations.

SCR 77 by Armbrister

Recommending that the purchase of the Allens Creek Reservoir site be ranked

as a high priority by the Texas Water Development Board.
To Committee on Natural Resources.

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House was read first time and referred to the committee indicated:

HCR 212 to Committee on Administration.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
April 24, 1997

TO THE SENATE OF THE SEVENTY-FIFTH LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE MEMBERS OF THE TEXAS STATE BOARD OF PUBLIC
ACCOUNTANCY for terms to expire January 31, 2003:

GWEN B. GILBERT
4426 Emerson
Dallas, Texas 75205

Ms. Gilbert will be replacing Vernon Evans of Fort Worth whose term expired.

REBECCA BEARD JUNKER
2003 Plantation Drive
Richmond, Texas 77469

Ms. Junker will be replacing Carmen Garcia of San Antonio whose term expired.

REAGAN S. McCOY
14103 Bluff Manor
San Antonio, Texas 78216

Mr. McCoy will be replacing Judy Lee of Houston whose term expired.

BARBARA J. THOMAS
11107 Lark Brook Lane
Houston, Texas 77065-3315

Ms. Thomas will be replacing Cynthia Barnes of Houston whose term expired.

Respectfully submitted,

/s/George W. Bush
Governor of Texas

CAPITOL PHYSICIAN

Senator Wentworth was recognized and presented Dr. Ed Reed of San Antonio as the "Doctor for the Day."

The Senate welcomed Dr. Reed and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 92, SB 243, SB 388, SB 415, SB 422, SB 553, SB 886 (Signed subject to Article III, Section 49a, Texas Constitution), **SCR 72, SJR 36, HB 718, HB 1018, HB 1979, HB 2664, HCR 111**

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given yesterday by Senator Madla.

Senator Madla moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

Senator Moncrief requested that the following nominees be severed and left pending:

To be Members of the TEXAS BOARD OF NURSING FACILITY ADMINISTRATORS: Ramona Dover Kennedy, Denton County; Jack Ray Tinsley, Collin County; Jerry Turner, Hill County; Audrey G. Williamson, Bastrop County.

The request was granted.

NOMINEES CONFIRMED

The following nominees, not severed and reported yesterday by the Committee on Nominations, were confirmed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

Members, Lower Colorado River Authority Board of Directors: PAMELA RUTH WILSON AKINS, Burnet County; GAY WARREN GADDIS, Travis County; FREDERICK LOREN HENNEKE, Kerr County; PATRICIA JEAN KIRK, San Saba County; HILDA C. KROLL, Blanco County; GALE MINZENMEYER LINCKE, Fayette County; ARTHUR J. MILBERGER, Matagorda County; E. PETER PINCOFFS, Travis County; STEVE D. RIVERS, Bastrop County; JOHN J. WEIDNER, Brown County.

Members, Brazos River Authority Board of Directors: MARY E. AINSLIE, Fort Bend County; ROBERT BATES ARNOT, Stephens County; RODOLFO GARCIA, Brazoria County; SHIRLEY MACKLIN HERRING, Washington County; ERNEST M. KOY, Austin County; JAMES RODNEY LEE, McLennan County; NANCY NIELSEN RABB, Williamson County.

Members, Central Colorado River Authority Board of Directors: ANN MILLER HARGETT, Coleman County; NAN KNOX MARKLAND, Coleman County; RONALD W. OWENS, Coleman County.

Members, Upper Colorado River Authority Board of Directors: GEORGE "RAY" ALDERMAN, Runnels County; RALPH EDWARD HOELSCHER, Tom Green County; JEFFIE HARMON ROBERTS, Coke County; DORRIS M. SONNENBERG, Coke County.

Members, Upper Guadalupe River Authority Board of Directors: MARSHA E. COPELAND, Kerr County; T. BECK GIPSON, Kerr County; GEORGE GRANGER MACDONALD, Jr., Kerr County; WILLIAM H. WILLIAMS II, Kerr County.

Members, Guadalupe-Blanco River Authority Board of Directors: WILLIAM A. BLACKWELL, DeWitt County; ANNE COOPER, Hays County; ASHLEY HOLMES TURBERVILLE, Gonzales County.

Members, Lavaca-Navidad River Authority Board of Directors: SANDRA RAE GREEN, Jackson County; CHARLES M. "CHUCK" HASDORFF, Jackson County; MICHAEL W. MENEFEE, Jackson County.

Members, Nueces River Authority Board of Directors: QUINNA ERNESTINE JESSUP CARSON, Edwards County; WILLIAM I. DILLARD, Uvalde County; JAMES F. DODSON, Nueces County; ARIEL ANTONIO GARCIA, Nueces County; HAZEL R. GRAFF, Medina County; KAY LYNN JASIK, Atascosa County; BETH REAVIS KNOLLE, Jim Wells County; PATTY PUIG MUELLER, Nueces County.

Members, Sabine River Authority Board of Directors: KAREN C. HAMPTON, Smith County; JOYCE PLUMMER HUGMAN, Gregg County; MARGIN STOVALL LATHAM, Hopkins County.

Sabine River Compact Commissioner for Texas: FRANK EDWARD PARKER, Shelby County.

GUESTS PRESENTED

Senator Truan was recognized and introduced to the Senate Jimmie McCurn, Executive Director of the Mary McLeod Bethune Day Nursery, Incorporated, of Corpus Christi and Nancy Burwell, President of the Board, who were representing the nursery on its 55th anniversary.

The Senate welcomed its guests.

(Senator Brown in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 1105 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1105, Relating to the liability of certain volunteer health care providers.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1105 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that CSSB 1105 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

CSSB 1105 was read third time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend CSSB 1105 as follows:

In SECTION 2 of the bill, amend Section 84.004, Civil Practice and Remedies Code, by adding a new Subsection (e) to read as follows:

(e) If the person signing the written statement required under Subsection (b) does not understand English, the written statement must be provided in a language the person understands.

The amendment was read.

Senator Duncan moved to table Floor Amendment No. 1.

On motion of Senator Duncan and by unanimous consent, the motion to table was withdrawn.

Question recurring on the adoption of Floor Amendment No. 1, the amendment failed of adoption by the following vote: Yeas 15, Nays 12. (Not receiving two-thirds of Members present)

Yeas: Armbrister, Barrientos, Cain, Ellis, Gallegos, Galloway, Lindsay, Lucio, Madla, Moncrief, Ogden, Shapleigh, Truan, West, Zaffirini.

Nays: Bivins, Brown, Duncan, Fraser, Harris, Haywood, Nelson, Patterson, Ratliff, Shapiro, Sibley, Wentworth.

Absent: Carona.

Absent-excused: Luna, Nixon, Whitmire.

CSSB 1105 was finally passed by a viva voce vote.

(President in Chair)

HOUSE BILL 1092 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 1092, Relating to missing children and other missing persons.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 1092 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1092** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

HB 1092 was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

HOUSE BILL 834 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

HB 834, Relating to the delay of certain payments or transfers from the general revenue fund.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 834 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 834** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

HB 834 was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

SENATE BILL 1665 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1665, Relating to the expansion of toll-free calling areas.

The bill was read second time.

Senator Shapiro offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1665** in SECTION 1, Section 3.304(a)(4)(C)(iii), Public Regulatory Act of 1995 (page 4, lines 30-31), by striking "(a)(2)(C)(i) or (a)(2)(C)(ii)" and substituting "(a)(4)(C)(i) or (a)(4)(C)(ii)".

The committee amendment was read and was adopted by a viva voce vote.

Senator Shapiro offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **SB 1665** in SECTION 1, Section 3.304(c), Public Utility Regulatory Act of 1995, by striking Subsection (c) (page 6, lines 17-21), and substituting the following:

(c) ~~In [The commission may, in] order to promote the wide dispersion of pay telephones, [either exempt] such telephones shall be exempt from the provisions of this section [or change the rates to be charged from such telephones in an amount sufficient to promote this goal].~~

The committee amendment was read and was adopted by a viva voce vote.

SB 1665 as amended was passed to engrossment by the following vote: Yeas 19, Nays 6.

Yeas: Barrientos, Bivins, Brown, Carona, Ellis, Gallegos, Harris, Lindsay, Lucio, Madla, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Zaffirini.

Nays: Fraser, Galloway, Haywood, Ogden, Shapleigh, Truan.

Absent: Armbrister, Cain, Duncan.

Absent-excused: Luna, Nixon, Whitmire.

(Senator Sibley in Chair)

SENATE BILL 1665 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1665** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Sibley, Wentworth, West, Zaffirini.

Nays: Galloway, Ogden, Shapleigh, Truan.

Absent-excused: Luna, Nixon, Whitmire.

SB 1665 was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Ogden asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 1596 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1596, Relating to ad valorem tax incentives for the development or redevelopment of certain property subject to a voluntary cleanup agreement.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1596** as follows:

(1) In SECTION 6 of the bill, after proposed Subsection 312.211(g), (introduced version, page 8, between lines 17 and 18), insert a new Subsection 312.211(h) to read as follows:

(h) a school district may not enter into a tax abatement agreement under this section.

(2) Strike Sections 8 and 9 (introduced version, page 9, line 2 through page 10, line 21), and renumber subsequent sections of the bill accordingly.

The committee amendment was read and was adopted by a viva voce vote.

SB 1596 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1596 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1596** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

SB 1596 was read third time and was passed by a viva voce vote.

SENATE BILL 572 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 572, Relating to the transfer of the University of Central Texas to The Texas A&M University System.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 572 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 572** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Duncan.

Absent-excused: Luna, Nixon, Whitmire.

SB 572 was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 658 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 658, Relating to the creation and dissolution of county development districts in certain counties.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Ellis asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 658 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 658** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0, Present-not voting 1.

Present-not voting: Ellis.

Absent-excused: Luna, Nixon, Whitmire.

CSSB 658 was read third time and was passed by the following vote: Yeas 27, Nays 0, Present-not voting 1. (Same as previous roll call)

SENATE BILL 1848 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1848, Relating to optional county vehicle registration fees.

The bill was read second time.

Senator Madla offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1848** as follows:

- (1) On page 1, line 8, strike "\$20" and substitute "\$12".
- (2) On page 1, line 11, strike "\$10" and substitute "\$2".

The committee amendment was read and was adopted by a viva voce vote.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1848** as follows:

- 1) Insert on page 1 between lines 33 and 34 an new SECTION 2 to read as follows:

SECTION 2. Section 502.103, Transportation Code, is amended to read as follows:

Sec. 502.103. DISPOSITION OF OPTIONAL COUNTY ROAD AND BRIDGE FEE. (a) Each Monday a county assessor-collector shall apportion the collections for the preceding week for a fee imposed under Section 502.172 by:

- (1) crediting an amount equal to 97 percent of the collections to the county road and bridge fund; and

- (2) sending to the department an amount equal to three percent of the collections to defray the department's costs of administering Section 502.172.

(b) During each county fiscal year, the commissioners court of a county with a population of more than 2.8 million shall allocate funds credited under Subsection (a)(1) for road projects in each municipality in the county and in the unincorporated area of the county. The allocation must be made in the same proportion that the population of the municipality located in the county or the population of the unincorporated area bears to the total population of the county.

- 2) Renumber remaining SECTIONS accordingly.

The amendment was read.

On motion of Senator Lindsay, Floor Amendment No. 1 was tabled by the following vote: Yeas 18, Nays 6.

Yeas: Bivins, Brown, Carona, Duncan, Galloway, Harris, Haywood, Lindsay, Madla, Moncrief, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, Zaffirini.

Nays: Barrientos, Cain, Ellis, Gallegos, Lucio, West.

Absent: Armbrister, Fraser, Patterson, Truan.

Absent-excused: Luna, Nixon, Whitmire.

SB 1848 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1848 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1848** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

SB 1848 was read third time and was passed by a viva voce vote.

SENATE BILL 1249 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 1249, Relating to the sale of property for delinquent ad valorem taxes.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1249** as follows:

(1) In SECTION 2 of the bill:

(a) In the section heading (introduced version page 2, line 8) strike "Subsection (h)" and insert "Subsections (h) and (i)".

(b) In Subsection (c), Section 34.05, Tax Code (introduced version page 3, lines 3 and 4), between "Subsection (h)" and "before" insert "or (i)".

(c) In Section 34.05, Tax Code (Introduced version page 4, between lines 6 and 7), insert Subsection (i) to read as follows:

"(i) In lieu of a sale pursuant to Subsections (c) and (d) of this section, the taxing unit that purchased the property may sell the property at a private sale for an amount less than required under Subsection (h) of this section with the consent of each taxing unit entitled to receive proceeds of the sale under the judgment. This subsection does not authorize a sale of property in violation of Section 52, Article III, Texas Constitution."

(2) In SECTION 4 of the bill (introduced version page 4, line 18), strike Subsection (a) and reletter Subsections (b) and (c) accordingly.

(3) In SECTION 5 of the bill (introduced version page 5, line 9), between "suspended" and "." insert ", and that this Act take effect and be in force from and after its passage, and it is so enacted".

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **SB 1249** as follows:

(1) At page 1 of **SB 1249** insert on line 23 after the word "period" the following: "and until the commencement of an action challenging the validity of the tax sale".

(2) At page 4 of **SB 1249** insert on line 9 "(a)" after the period following the word "**SALE**".

(3) At page 4 of **SB 1249** insert after line 17 and before line 18 (at end of SECTION 3) the following language:

"(b) A person may not commence an action challenging the validity of a tax sale after the time set forth in Section 33.54(a)(1) or (2), as applicable to the property, against a subsequent purchaser for value who acquired the property in reliance on the tax sale. Such purchaser may conclusively presume that the tax sale was valid and shall have full title to the property free and clear of the right, title, and interest of any person that arose before the tax sale, subject only to recorded restrictive covenants and valid easements of record set forth in Section 34.01(d) and subject to applicable rights of redemption.

"(c) If a person is not barred from bringing an action challenging the validity of a tax sale under Subsection (b) or any other provision of this code or applicable law, such person must bring an action no later than two years after the cause of action accrues to recover real property claimed by another who: (1) pays applicable taxes on the real property before overdue; and (2) claims the property under a registered deed executed pursuant to Section 34.01. This subsection does not apply to a claim based on a forged deed."

The committee amendment was read and was adopted by a viva voce vote.

SB 1249 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1249 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1249** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

SB 1249 was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 1241 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1241, Relating to the creation of the Faculty Enhancement Fund for Generalist Physicians.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1241** SECTION 2, Chapter 58, Section 58.009, by adding a new subsection (f) as follows:

(f) The board may solicit, receive, and spend grants, gifts, and donations from public and private sources to comply with this section.

The amendment was read and was adopted by a viva voce vote.

CSSB 1241 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1241 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1241** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Duncan.

Absent-excused: Luna, Nixon, Whitmire.

CSSB 1241 was read third time and was passed by the following vote: Yeas 27, Nays 0. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, April 25, 1997

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 197, Commemorating the 50th anniversary of the United Way of Midland.

HCR 199, Celebrating the birth of Jordan Mitchell Satterwhite.

HCR 201, Commemorating the 25th anniversary of Guadalupe Mountains National Park.

HCR 221, In memory of the Honorable James C. Day, Jr.

SCR 63, Honoring George Gervin.

Respectfully,

/s/Sharon Carter, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Haywood was recognized and introduced to the Senate a group of students from Saint Mary School of Gainesville.

The Senate welcomed its guests.

SENATE BILL 715 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 715, Relating to apportionment of the state into state senate districts.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 715** in ARTICLE III of the bill, at the end of SECTION 4(a) (page 117, line 20, introduced bill), by adding: "The legislature notes that its intent as expressed in this subsection is consistent with the April 1997 decision of the court of appeals in *Armbrister v. Morales*, No. 03-97-00011-CV (Tex. App.—Austin 1997).

The committee amendment was read and was adopted by a viva voce vote.

SB 715 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 715 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 715** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

SB 715 was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE**SENATE BILL 1387 ON SECOND READING**

Senator Patterson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

CSSB 1387, Relating to benefits for certain roof damage on property insured through the Texas Catastrophe Property Insurance Association.

There was objection.

Senator Patterson then moved to suspend the regular order of business and take up **CSSB 1387** for consideration at this time.

The motion prevailed by the following vote: Yeas 21, Nays 7.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Lucio, Madla, Moncrief, Truan.

Absent-excused: Luna, Nixon, Whitmire.

CSSB 1387 was read second time and passed to engrossment by the following vote: Yeas 22, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Madla, Moncrief, Truan.

Absent-excused: Luna, Nixon, Whitmire.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 1387 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1387** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 6. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Fraser, Galloway, Harris, Haywood, Lindsay, Lucio, Nelson, Ogden, Patterson, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Zaffirini.

Nays: Barrientos, Ellis, Gallegos, Madla, Moncrief, Truan.

Absent-excused: Luna, Nixon, Whitmire.

GUEST PRESENTED

The Presiding Officer, Senator Sibley in Chair, introduced to the Senate Judge John H. Hannah, Jr., former Secretary of State.

The Senate welcomed Judge Hannah.

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate a group of third-, fourth-, and fifth-grade students and their teacher Sandra McLemore from the Elrod Math, Science, and Technical Academy in Houston.

The Senate welcomed its guests.

SENATE BILL 808 ON SECOND READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

SB 808, Relating to limiting the liability of certain persons involved in an issuance of securities by a small business.

The bill was read second time.

Senator Ratliff offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 808** as follows:

On page 1, lines 9, 11 and 18 and on page 2, lines 3 and 4, replace the word "subsection" with "Section 33N".

On page 1, lines 23-24, replace "Paragraph (a) of this subdivision" with "Section 33N(2)(a)".

On page 2, line 3, replace "all actions" with "any action or series of actions under Section 33".

On page 2, lines 7-8, delete "in an action described by this subdivision".

The committee amendment was read.

On motion of Senator Ratliff and by unanimous consent, Committee Amendment No. 1 was tabled.

Senator Ratliff offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **SB 808** as follows:

In SECTION 1 of the Bill, page 2, line 2 in added Section 33N of the Texas Securities Act (Article 581-33, Vernon's Texas Civil Statutes), add the following:

(c) and applies to a person who relied upon a disclosure in the prospectus or offering documents of the small business issuer describing the limitations of liability in this subsection as provided.

The committee amendment was read.

On motion of Senator Ratliff and by unanimous consent, Committee Amendment No. 2 was tabled.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 808** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 33, The Securities Act (Article 581-33, Vernon's Texas Civil Statutes), is amended by adding Subsection N to read as follows:

N. Limitation of Liability in Small Business Issuances. (1) For purposes of this Section 33N, unless the context otherwise requires, "small business issuer" means an issuer of securities that, at the time of an offer to which this Section 33N applies:

(a) has annual gross revenues in an amount that does not exceed \$25 million; and

(b) does not have a class of equity securities registered, or required to be registered, with the Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. Section 781).

(2) This Section 33N applies only to:

(a) an offer of securities made by a small business issuer or by the seller of securities of a small business issuer that is in an aggregate amount that does not exceed \$5 million; and

(b) a person who has been engaged to provide services relating to an offer of securities described by Section 33N(2)(a), including an attorney, an accountant, a consultant, or the firm of the attorney, accountant, or consultant.

(3) The maximum amount that may be recovered against a person to which this Section 33N applies in any action or series of actions under Section 33 relating to an offer of securities to which this Section 33N applies is an amount equal to three times the fee paid by the issuer or other seller to the person for the services related to the offer of securities, unless the trier of fact finds the person engaged in intentional wrongdoing in providing the services.

(4) A small business issuer making an offer of securities shall provide to the prospective buyer a written disclosure of the limitation of liability created by this Section 33N.

SECTION 2. This Act applies only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law in effect at the time the action was filed, and that law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by a viva voce vote.

SB 808 as amended was passed to engrossment by a viva voce vote.

SENATE BILL 808 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 808** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

SB 808 was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

SENATE BILL 1622 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

CSSB 1622, Relating to the creation of the Lubbock Reese Redevelopment Authority; granting the power of eminent domain.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1622** (committee printing) as follows:

(1) On page 2, beginning on line 34, strike the following phrase: "The Authority may acquire by eminent domain any interest in real property including a fee simple interest and the use of air or subsurface space. Chapter 21 of the Property Code applies to an eminent domain proceeding by the Authority". Renumber the following subsections.

(2) On page 2, delete line 65. Renumber the following subsections.

The amendment was read and was adopted by a viva voce vote.

CSSB 1622 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1622 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1622** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Nixon, Whitmire.

CSSB 1622 was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1781 ON THIRD READING**

Senator Ellis moved that the regular order of business be suspended and that **CSSB 1781** be placed on its third reading and final passage:

CSSB 1781, Relating to delinquency charges in retail charge agreements.

The motion prevailed by the following vote: Yeas 18, Nays 7, Present-not voting 1.

Yeas: Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Lindsay, Lucio, Madla, Moncrief, Nelson, Patterson, Ratliff, Shapiro, Wentworth.

Nays: Armbrister, Galloway, Ogden, Shapleigh, Truan, West, Zaffirini.

Present-not voting: Sibley.

Absent: Barrientos, Bivins.

Absent-excused: Luna, Nixon, Whitmire.

CSSB 1781 was read third time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1781** by adding at the end of SECTION 1 of the bill (committee printing, page 1, line 28) the following:

If the Consumer Credit Commissioner determines that any seller that was operating under this chapter on September 1, 1997, has after that date moved its credit operations out of this state in a manner that results in the seller's retail installment contracts not being subject to this chapter, the Consumer Credit Commissioner shall notify the Finance Commission of Texas and the Finance Commission shall by rule reduce the maximum delinquency charge that may be collected under this subsection to \$10.

The amendment was read and was adopted by unanimous consent.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend CSSB 1781 as follows:

On lines 21 and 22 of the bill, after the words "for a period of more than", strike the number "21" and insert "35".

The amendment was read and was adopted by unanimous consent.

CSSB 1781 as amended was finally passed by a viva voce vote.

RECORD OF VOTES

Senators Armbrister, Barrientos, Galloway, Ogden, Shapleigh, Truan, West, and Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Brown and by unanimous consent, Senate Rule 11.11 and Senate Rule 11.19 were suspended in order that the Committee on Natural Resources might meet and consider SB 1909 today.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.11 and Senate Rule 11.19 were suspended in order that the Committee on State Affairs might meet and consider the following bills today:

SB 993, HB 1836, HB 1077, HB 1025, HB 833, HB 799, HB 711, HB 641, HB 255, HB 101, SB 1905, SB 1850, SB 1647, SB 1469, SB 1343, SB 1066, SB 603, SB 14

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Harris announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:30 a.m. Monday, April 28, 1997, and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Harris and by unanimous consent, Senate Rule 11.11 and Senate Rule 11.19 were suspended in order that the Committee on Economic Development might meet and consider **SB 1155** today.

PERMISSION TO INTRODUCE BILL

On motion of Senator Truan and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bill: **SB 1940**

**SENATE RULE 11.19 SUSPENDED
(Posting Rule)**

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Jurisprudence might consider **SB 889** on Monday, April 28, 1997.

SENATE BILL ON FIRST READING

The following bill was introduced, read first time, and referred to the committee indicated:

SB 1940 by Carona

Relating to a charge for certain types of noncredit insurance and products. To Committee on Economic Development.

MOTION TO ADJOURN

On motion of Senator Truan and by unanimous consent, the Senate at 12:35 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session to be held Monday, April 28, 1997, until 10:00 a.m. Monday, April 28, 1997.

MEMORIAL RESOLUTION

SR 587 - by Galloway: In memory of Malcolm Eugene Dorman of Orange.

CONGRATULATORY RESOLUTIONS

SR 572 - by Truan: Congratulating the Mary McLeod Bethune Day Nursery, Incorporated, in Corpus Christi.

SR 584 - by Haywood: Congratulating Pat Shores of Wichita Falls.

SR 585 - by Haywood: Congratulating Jeffrey M. Uriniak of Wichita Falls.

SR 586 - by Moncrief: Congratulating Beulah Mae Hall of Stanton.

HCR 36 - (Ratliff): Congratulating Anne Farris of De Kalb.

RECESS

On motion of Senator Truan, the Senate at 12:36 p.m. recessed subject to receipt of Messages from the House.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Senate:

April 25, 1997

ADMINISTRATION — HCR 11, HCR 148

INTERNATIONAL RELATIONS, TRADE, AND TECHNOLOGY —
CSSB 1351

FINANCE — SB 844, SB 1534, SB 1871, SB 1880, HB 8, HB 527,
HB 634, HJR 8

ECONOMIC DEVELOPMENT — HB 160, HB 1266, HB 1720, SB 1836,
CSSB 643

NATURAL RESOURCES — CSSB 1876

FINANCE — SB 1407

NATURAL RESOURCES — CSSB 1910, CSSB 1436, CSSB 1857,
CSSB 1050

INTERGOVERNMENTAL RELATIONS — CSSB 1425, CSSB 1203,
CSSB 19, CSSB 18

NATURAL RESOURCES — CSSB 1874

STATE AFFAIRS — HB 51 (Amended), SB 27 (Amended), SB 1396
(Amended), CSSB 535, CSSB 839, CSSB 722, CSSB 1661, CSSB 1571

ECONOMIC DEVELOPMENT — CSSB 836

STATE AFFAIRS — HB 566 (Amended)

INTERGOVERNMENTAL RELATIONS — CSSB 1455

EDUCATION — CSSB 471, CSSB 598

ECONOMIC DEVELOPMENT — SB 1663, HB 1414